



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Charles J. Renz
Serial No.: 10/658,308
For: NIPPLE
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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Dear Sir:

In response to the final Office Action dated November 30, 2005 and the Advisory Action dated March 15, 2006, Applicant respectfully files herewith a Notice of Appeal and requests review of the present application before filing an appeal brief.

Related Appeals

The issues presented in the present application are not related to any pending appeal.

Status of the Claims

Claims 34, 37 through 44 and 57 through 64 are pending in this application. Claims 34 and 57 are independent. Independent claims 34 and 57 (as well as dependent claims 37 through 44 and 58 through 64) stand finally rejected under 35 U.S.C. §102 over U.S. Patent No. 5,653,732 to Sheehy (Sheehy).

Clear Errors for Review

The Advisory Action asserts that a ridge or raised strip on the surface of a nipple anticipates a smooth area between the stem and areola region of the nipple as in claims 34 and 57. Applicant respectfully submits that the annular raised strip along the surface of the prior art is not an inwardly concave surface that is smooth as in the pending claims of the present application.

Independent claims 34 and 57 require, respectively, a nipple with the areola region and the proximal end of the stem being connected along an inwardly concave surface, wherein the inwardly concave surface is smooth and a nipple with the areola region and the proximal end of the stem being connected to form an inwardly concave surface, with a transition from the areola region to the proximal end of the stem being smooth.

As a non-limiting exemplary embodiment, the present application shows (labels added):

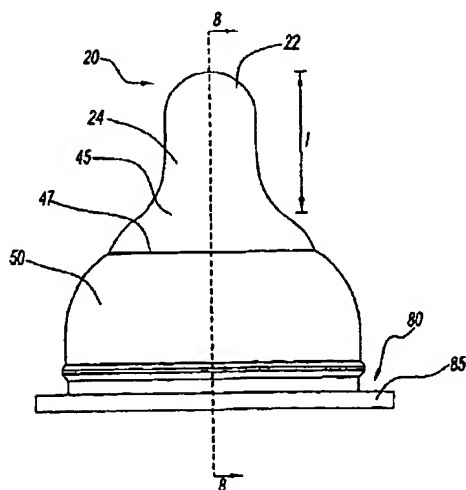


Fig. 7

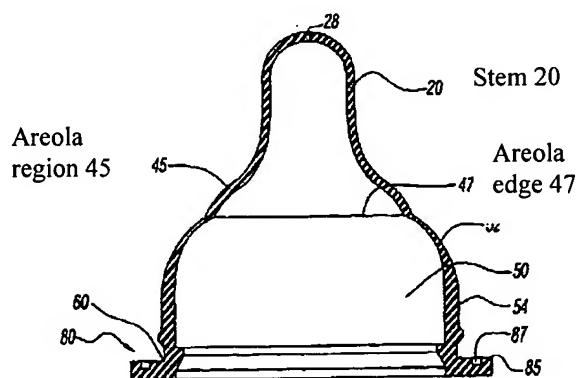
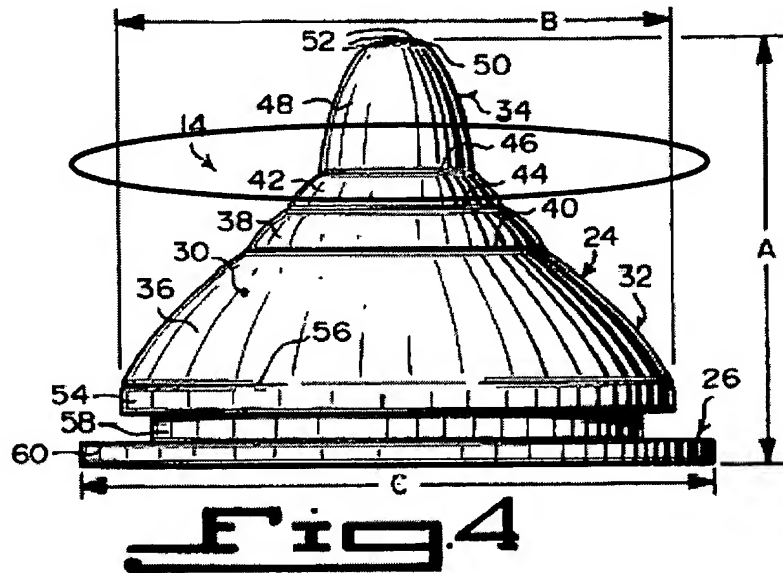


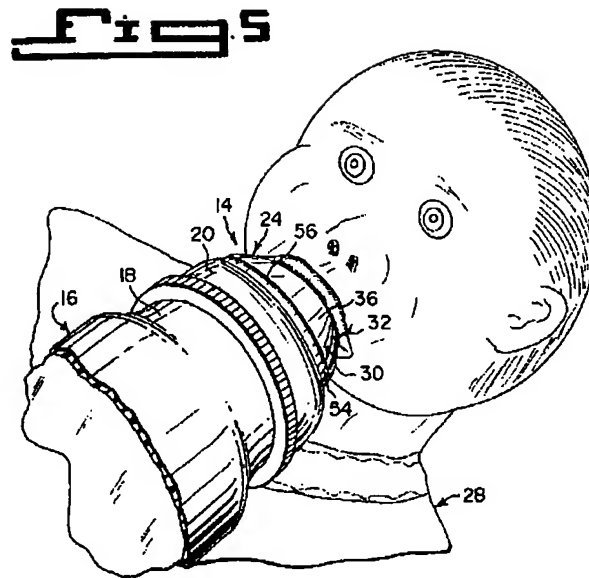
Fig. 8

In stark contrast, the Sheehy patent shows a non-smooth surface between the stem and upper segment 42 (oval added for emphasis):



The Advisory Action and Office Action contend that an inward surface having ridge 46 is "also considered to be smooth." (Office Action dated Nov. 30, 2005 p. 3). Applicant respectfully submits that a ridge 46 positioned along an inwardly shaped surface clearly makes that surface non-smooth as shown above.

Moreover, the objective of Sheehy is to facilitate the weaning process from breast feeding to bottle-feeding. (Sheehy col. 1, lines 12-13). Sheehy submits that the difficulty arises for infants from transitioning from wide-mouth breast feeding to narrow-mouth bottle-feeding. (Sheehy col. 1, lines 11-12). Sheehy provides three separate segments 36, 38 and 42 of different sizes to assist in this transition. (Sheehy col. 2, lines 39-44). To distinctly separate these segments, ridges 40, 44 and 46 are provided. As seen in Fig. 5, the ridges guide the infant to suck on one of the segments at a time (intermediate segment 38 in the depicted example):



Ridge 46 is in the opposite direction from the inward shape of the transition between the stem 48 and the upper segment 42 of the Sheehy nipple. A "ridge" is a "raised strip." (Webster's II New College Dictionary, p. 953).

Applicant respectfully submits that the Office Action's interpretation of an outwardly extending strip along an inwardly shaped surface as being "smooth" obfuscates both the meaning of smooth and the meaning of ridge as understood by one of ordinary skill in the art and as defined by the Sheehy specification, as well as the present application. A smooth surface is one that does not have a raised ridge, especially where such a raised ridge would be positioned along an inwardly shaped surface and, thus, in the opposite direction of the shape of the surface. As described in the specification of the present application, "[t]he tapered shape of stem 20 causes the baby to slide past the stem and on to areola region 45." (Specification p. 6, lines 12-13). In contrast, the non-smooth shape of the Sheehy nipple created by ridge 46 guides the infant in latching on to the particular segment.

Accordingly, it is respectfully submitted that Sheehy does not disclose or suggest

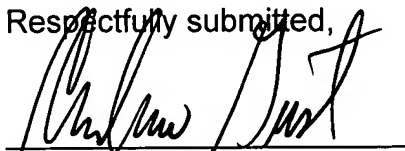
the features of claims 34 and 57, and teaches away from such features, of a nipple with the areola region and the proximal end of the stem being connected along an inwardly concave surface, wherein the inwardly concave surface is smooth or a nipple with the areola region and the proximal end of the stem being connected to form an inwardly concave surface, with a transition from the areola region to the proximal end of the stem being smooth.

In view of the above, it is respectfully submitted that the final rejection is clearly erroneous and, as such, the present application is in condition for allowance. Reconsideration and withdrawal of the rejection to the claims and passage of the present application to issuance are respectfully requested. Such action is solicited.

If for any reason the Examiner feels that consultation with Applicant's attorney would be helpful in the advancement of the prosecution, the Examiner is invited to call the telephone number below.

March 30, 2006

Respectfully submitted,



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